

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

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In the Matter of

Schools and Libraries Universal Service  
Support Mechanism

Request for Review of a Decision of the  
Universal Service Administrator by

Yeshiva Avir Yakov  
Spring Valley, NY

CC Docket No. 02-6

**Request for Review**

Applicant: Yeshiva Avir Yakov

Billed Entity Number: 11332

For 471: 774720

FRN: 2102878

Submitted by:

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## Introduction

This is an appeal of USACs denial of our initial appeal concerning FRN 2102878. USAC denied the appeal because "it was determined that your item 21 Attachment was not received before the filing deadline".

We submit this was a clerical and ministerial error.

We use a spreadsheet as the item 21 document. In creating the spreadsheet for the current year we go back to the previous year's item 21 and modify the document to capture the current year's information – FRN, dollar amount, etc. This modified item 21 document is then submitted to USAC. The 2010 item 21 had four FRNs. The 2011 telecommunications application had five FRNs. When creating the 2011 item 21 we simply modified four FRNs from the 2010 item 21 and neglected to add the fifth.

We made a mistake, a clerical error, on the item 21 submitted for application 774720. The item 21 was submitted on time but FRN 2102878 was omitted from the document.

The FCC recognizes the E Rate program is not a mistake free process and allows for clerical and ministerial errors in the application process. This is a clerical and ministerial error and we request a waiver of the current FCC rules or a remand back to USAC for further review.

## Summary

1 – We made a mistake.

2 - The FCC has provisions for correcting mistakes.

3 - An item 21 was submitted to USAC on January 26, 2011. The item 21 contained the required information for all FRNs on the application except FRN 2102878.

4 – We corrected the mistake before the FCDL was issued. We became aware of the error on July 12, 2011 during the PIA review process. We provided the required item 21 documentation to the PIA reviewer on that date. The FCDL was issued on July 19, 2011.

5 – The FCC has issued various orders relating to clerical and ministerial errors on the part of applicants. These orders offer relief to the applicants in the form of FCC waivers of existing rules. These Orders include: Bishop Perry Order (FCC 06-54), the Ann Arbor Public Schools Order (DA 10-2354) and FCC 11-60 issued on April 14<sup>th</sup>, 2011.

4 – We believe that the omission of an FRN on an item 21 is a clerical and ministerial error and not just cause to deny the FRN. The mistake is a procedural mistake and does not elevate to the level of waste, fraud or abuse of the program rules. In addition the required item 21 information was provided to USAC prior to the issuing of the FCDL.

5 - In paragraph 12, the Bishop Perry Order states, "We find that a slight delay in USAC's receipt of the applications in each of these cases does not warrant the complete rejection of each of these applicants' E-rate applications. Therefore, we find that good cause exists to waive section 54.507 of the rules for these applications."

We believe a missing item 21 is analogous to a missing certification. In paragraph 19 the FCC states, "We find, however, that a missing certification does not constitute a substantive violation, but a procedural one."

Finally, in paragraph 23, "As of the effective date of this Order, we require USAC to provide all E-rate applicants with an opportunity to cure ministerial and clerical errors on their FCC Form 470 or FCC Form 471, and an additional opportunity to file the required certifications. Specifically, USAC shall inform applicants promptly in writing of any and all ministerial or clerical errors that are detected in their applications, along with a clear and specific explanation of how the applicant can remedy those errors."

6 – The Ann Arbor Decision (DA 10-2354) further supports that mistakes happen in the E Rate application and review process and offer applicants relief from these mistakes.

Specifically, we find that the petitioners inadvertently made ministerial or clerical errors while completing their FCC forms, while responding to USAC requests for additional information during the application review process, or while making requests for service substitution.<sup>5</sup> These errors include: failing to timely notify USAC to correct a USAC clerical error; 6 entering the wrong FCC Form 470 number, wrong billed entity number, or wrong billed entity number/worksheet number on their FCC Form 471;<sup>7</sup> entering the wrong name or service provider identification number (SPIN);<sup>8</sup> entering the wrong expiration date for a contract;<sup>9</sup> erroneously characterizing the purchase and installation of equipment as a recurring service;<sup>10</sup> making a calculation error;<sup>11</sup> entering the monthly charge as the annual charge;<sup>12</sup> entering the discounted annual price rather than the pre-discount annual price;<sup>13</sup> entering the amount that a service provider was mistakenly temporarily charging rather than the contracted monthly rate;<sup>14</sup> miscalculating its discount rate;<sup>15</sup> failing to separately list a building where equipment was to be located;<sup>16</sup> failing to enter a request for telecommunications service that was clearly indicated on its item 21 attachment;<sup>17</sup> basing its block 5 funding requests on the wrong FCC Form 471 block 4 worksheet;<sup>18</sup> selecting the wrong term or service;<sup>19</sup> selecting the wrong category of service in its FCC Form 471; 20 making a typographical error in recording the cost of ineligible equipment in response to a USAC request for additional data;<sup>21</sup> failing to follow the correct procedure for modifying its FCC Form 471;<sup>22</sup> mistakenly providing the wrong documentation concerning a purchase; 23 and describing the service it purchased as for its entire district when it was only intended to serve a single elementary school.<sup>24</sup> In addition, one applicant omitted a service from a service substitution request,<sup>25</sup> and another entered the wrong application number on the certifications it submitted and apparently failed to press the submit button to submit its otherwise completed application.<sup>26</sup>

7 – Since the correct item 21 documentation was provided prior to the issuance of a FCDL, FCC order 11-60 offers additional justification for review/waiver. According to FCC Order (FCC 11-60), ministerial and clerical errors are defined as follows: "The applicant can amend its forms to correct clerical and ministerial errors on their FCC Forms 470, FCC Form 471 applications, or associated documentation until an FCDL is issued. Such errors include only the kinds of errors that a typist might make when entering data from one list to another, such as mistyping a number, using the wrong name or phone number, failing to enter an item from the source list onto the application, or making an arithmetic error."

As stated above the item 21 was submitted on time. When the applicant was made aware of the missing FRN the correction was sent to USAC within the 15 day window and prior to issuing an FCDL.

### Conclusion

1 – A clerical and ministerial error was made in the creation of the item 21 documentation for application 774720.

2 – The item 21 was filed on time but one FRN was omitted due to the type of error a typist might make.

3 – The missing item 21 documentation was provided prior to the issuance of a FCDL.

4 – The FCC offers relief for clerical and ministerial errors in the above cited Orders.

5 – We respectfully request a waiver of FCC rules or a remand back to USAC for further review.